

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1427  
By: Hinojosa  
Agriculture, Rural Affairs & Homeland Security  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Citrus Greening Disease is a bacterial disease spread by an insect vector known as the Asian Citrus Psyllid and is the most devastating citrus disease worldwide.

Greening Disease kills citrus plants and slashes citrus production, and there is currently no cure or treatment for infected trees. Citrus Greening was first discovered in Florida in 2005 and has devastated the citrus industry in that state. It has been discovered in Texas in January 2012.

The three internationally accepted solutions for controlling the disease are vector control, removing infected trees, and providing a source of clean, disease-free trees. In order to avoid the challenges faced recently by the Florida citrus industry, Texas must ensure that a clean source of nursery stock is maintained. S.B. 1427 gives the Texas Department of Agriculture the authority to regulate the propagation of citrus budwood in a manner that would minimize the threat of psyllids being exposed to plants being produced within a certain Citrus Zone in Texas.

S.B. 1427 establishes a certified citrus nursery program for citrus nursery stock sold in or into the citrus zone as part of an effort to produce citrus trees that are free from pathogens, including citrus greening disease.

As proposed, S.B. 1427 amends current law relating to the administration of the citrus budwood certification program and the creation of the citrus nursery stock certification program, provides civil, criminal, and administrative penalties, and authorizes fees.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Department of Agriculture (TDA) is modified in SECTION 7 (Section 19.006, Agriculture Code), SECTION 8 (Sections 19.008, 19.009, and 19.011, Agriculture Code), SECTION 9 (Section 19.012, Agriculture Code), SECTION 10 (Section 19.013, Agriculture Code), and SECTION 11 (Section 19.014, Agriculture Code) of this bill.

Rulemaking authority is expressly granted to TDA in SECTION 12 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Chapter 19, Agriculture Code, to read as follows:

#### **CHAPTER 19. CITRUS BUDWOOD AND CITRUS NURSERY STOCK CERTIFICATION PROGRAMS**

SECTION 2. Amends Section 19.001, Agriculture Code, as follows:

Sec. 19.001. PURPOSE. Provides that the purpose of this chapter (Citrus Budwood Certification Program) is to:

- (1) establish a certified citrus budwood program to produce citrus trees that are horticulturally sound, are free from virus and other recognizable bud-transmissible diseases, and are of an assured type of citrus variety;

(2) establish a certified citrus nursery program for citrus nursery stock sold in or into the citrus zone as part of an effort to produce citrus trees that are free from pathogens, including citrus greening disease, which is spread by the Asian citrus psyllid;

(3) provide standards for foundation groves, certified citrus nurseries, and certified citrus nursery trees; and

(4) provide for an advisory council to make recommendations on the implementation of the programs, rather than the implementation of the program.

Makes nonsubstantive changes.

SECTION 3. Amends Section 19.002, Agriculture Code, by adding Subdivisions (1-a), (2-a), (2-b), and (5-a), to define "Asian citrus psyllid," "certified citrus nursery," "certified citrus nursery stock," and "citrus nursery stock," and amending Subdivisions (4) and (5) to redefine "citrus grower" and "citrus nursery."

SECTION 4. Amends Section 19.003, Agriculture Code, to provide that, except as otherwise provided by this chapter, this chapter applies to all citrus nurseries and citrus growers.

SECTION 5. Amends Chapter 19, Agriculture Code, by adding Sections 19.0031 and 19.0041, as follows:

Sec. 19.0031. CITRUS ZONE. Designates the following counties as the citrus zone of this state for the purpose of this chapter: Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Starr, Willacy, and Zapata.

Sec. 19.0041. CITRUS NURSERY STOCK CERTIFICATION PROGRAM. (a) Establishes the citrus nursery stock certification program. Provides that the Texas Department of Agriculture (TDA) administers the program.

(b) Requires TDA to accomplish the purposes of the program through the certification of nurseries growing or selling citrus nursery stock in the citrus zone.

(c) Requires that all citrus nursery stock grown in or sold in or into the citrus zone be grown in a certified citrus nursery.

(d) Requires TDA, in consultation with the citrus budwood advisory council (advisory council), to set standards for certified citrus nurseries and citrus nursery stock certification, to inspect citrus nurseries and the records of citrus nurseries to ensure that citrus nurseries comply with the provisions of the citrus nursery stock certification program.

(e) Requires TDA provide for an annual renewal of a certificate for a certified citrus nursery, including the imposition of applicable fees. Requires TDA to renew the certificate if the nursery maintains the standards set by TDA under Subsection (d).

SECTION 6. Amends Section 19.005(a), Agriculture Code, as follows:

(a) Requires the commissioner of agriculture (commissioner) to appoint the advisory council. Provides that the advisory council is composed of 11 members, rather than seven members, including:

(1) one member representing TDA;

(2) one member representing The Texas A&M University-Kingsville Citrus Center at Weslaco;

- (3) two members representing the commercial citrus nursery industry;
- (4) two members representing commercial citrus growers;
- (5) one member having specialized knowledge in citrus diseases and pests;
- (6) one member representing nurseries that propagate citrus nursery stock for retail marketing purposes;
- (7) one member representing Texas Citrus Mutual; and
- (8) two members representing the citrus packing shed industry.

Makes nonsubstantive changes.

**SECTION 7.** Amends Section 19.006, Agriculture Code, as follows:

**Sec. 19.006. RULES.** Requires TDA, with the advice of the advisory council, to adopt standards and rules:

- (1) necessary to administer the citrus budwood certification program and the citrus nursery certification program;
- (2) to regulate the sale of citrus budwood and citrus nursery trees as supplies of certified citrus budwood and certified citrus nursery trees become available; and
- (3) requiring citrus nursery stock grown in or sold into the citrus zone to be propagated:
  - (A) using certified citrus budwood; and
  - (B) in an enclosed structure that is built to specifications as determined by TDA rule, and has a top and sides that are built to exclude insects that may transmit citrus pathogens.

**SECTION 8.** Amends Sections 19.007, 19.008, 19.009, 19.010, and 19.011, Agriculture Code, as follows:

**Sec. 19.007. CERTIFICATION STANDARDS.** (a) Requires TDA to establish certain standards and procedures, including procedures for certification of citrus nurseries and citrus nursery trees.

(b) Requires TDA to establish standards and procedures for:

- (1) Makes no change to this subdivision;
- (2) certifying citrus budwood and citrus nurseries meeting requirements established under this chapter;
- (3) Makes no change to this subdivision;
- (4) verifying propagation of citrus varieties and special rootstocks for growers on request, including an inspection of the citrus nursery's books and records;
- (5) maintaining appropriate records required for participation in the citrus budwood certification and citrus nursery stock certification programs, rather than for participation in the program;

(6) inspecting citrus nurseries to ensure that the structures in which citrus nursery stock is propagated meet standards set by TDA, including standards for size, construction, insect resistance, citrus nursery sanitation, movement of the citrus nursery stock from one structure to another at the nursery, proximity to nearby citrus groves, and other standards for the operation of a certified nursery as may be required by TDA; and

(7) requiring each citrus nursery to submit source tree bud cutting reports to TDA not later than the 30th day after citrus trees are budded.

Makes nonsubstantive changes.

Sec. 19.008. New heading: APPLYING FOR FOUNDATION GROVE DESIGNATION, BUDWOOD CERTIFICATION, AND CITRUS NURSERY CERTIFICATION. (a) Creates this subsection from existing text. Makes a nonsubstantive change.

(b) Requires a person who desires to operate a citrus nursery to propagate citrus nursery stock for sale in or into the citrus zone to apply for citrus nursery certification in accordance with rules adopted by TDA.

Sec. 19.009. REVOCATION. Requires TDA to establish rules regarding the revocation of foundation grove designation, citrus budwood certification, and citrus nursery certification.

Sec. 19.010. PROGRAM COST; FEES; ACCOUNT. (a) Requires TDA to set and collect fees from persons applying for foundation grove designation, citrus budwood certification, or citrus nursery certification. Requires TDA to set the fees in an amount that recovers TDA's costs in administering and enforcing the citrus budwood certification program and the citrus nursery certification program. Authorizes TDA to also accept funds from the citrus industry or other interested persons to cover the costs of administering the programs, rather than the program.

(b) Requires that all fees and funds collected or contributed under this section be deposited to the credit of an account in the general revenue fund. Authorizes money in the account to be appropriated only to TDA for the purpose of administering and enforcing this chapter.

Sec. 19.011. STOP-SALE ORDER. (a) Authorizes TDA, if a person offers citrus budwood or a citrus nursery tree for sale falsely claiming that it is certified, that it comes from a designated foundation grove, or that it comes from a certified citrus nursery, or offers citrus budwood, a citrus nursery tree, or citrus nursery stock for sale in violation of rules adopted under this chapter, to issue a written order to stop the sale of that citrus budwood, citrus nursery tree, or citrus nursery stock. Prohibits a person from selling citrus budwood, a citrus nursery tree, or citrus nursery stock that is subject to a stop-sale order under this section until:

(1) the sale is permitted by a court under Subsection (b); or

(2) TDA determines that the sale of the citrus budwood, citrus nursery tree, or citrus nursery stock is in compliance with this chapter and rules adopted under this chapter.

Makes nonsubstantive changes.

(a-1) Authorizes TDA to issue a written order to stop the sale of citrus nursery stock from a citrus nursery or to stop the operation of all or part of a citrus nursery if a person propagates citrus nursery stock in a citrus nursery for sale in or into the citrus zone and:

(1) the person falsely claims that the citrus nursery is certified; or

(2) if the citrus nursery is certified, the person fails to comply with the rules adopted under this chapter.

(a-2) Prohibits a person from selling citrus nursery stock out of a citrus nursery, or operate a citrus nursery or a part of a citrus nursery, that is subject to a stop-sale order under this section until:

(1) the sale is permitted by a court under Subsection (b); or

(2) TDA determines that the citrus nursery is in compliance with this chapter and rules adopted under this chapter.

(b) Authorizes the person named in the order to bring suit in a court in the county where the citrus budwood, citrus nursery tree, or citrus nursery subject to the stop-sale order is located. Authorizes the court, after a hearing, to, as applicable, permit the citrus budwood or citrus nursery tree to be sold, or permit the citrus nursery to continue operations, if the court finds, as applicable, the citrus budwood or citrus nursery tree is not being offered for sale or that the citrus nursery is not operating in violation of this chapter.

(c) Makes no change to this subsection.

(d) Requires TDA to inspect each citrus nursery in the citrus zone not less than once every two months in order to enforce this section.

SECTION 9. Amends Section 19.012(a), Agriculture Code, as follows:

(a) Provides that a person commits an offense if the person:

(1) sells or offers to sell citrus budwood, a citrus nursery tree, or citrus nursery stock falsely claiming that it is certified or that it comes from a designated foundation grove or a certified citrus nursery;

(2) uses, for commercial purposes, citrus budwood that is required by TDA rule to be certified and is not certified or does not come from a designated foundation grove;

(3) sells or offers to sell in or into the citrus zone citrus nursery stock that has not been propagated in a certified citrus nursery;

(4) operates, in the citrus zone for the propagation of citrus nursery stock, a citrus nursery that is not a certified citrus nursery or that is not in compliance with this chapter or a rule adopted under this chapter;

(5) operates, outside of the citrus zone for the propagation of citrus nursery stock for sale into the citrus zone, a citrus nursery that is not a certified citrus nursery or that is not in compliance with this chapter or a rule adopted under this chapter; or

(6) fails to comply with an order of TDA issued under this chapter.

Makes nonsubstantive changes.

SECTION 10. Amends Sections 19.013(a) and (c), Agriculture Code, as follows:

(a) Provides that a person who violates this chapter, a rule adopted under this chapter, or an order adopted under this chapter is liable to the state for a civil penalty not to exceed \$500 for each violation.

(c) Requires that a civil penalty collected under this section in a suit filed by the attorney general be deposited to the credit of an account in the general revenue fund. Requires that a civil penalty collected under this section in a suit filed by a county or district attorney be divided between the state and the county in which the county or district attorney brought suit, with 50 percent of the amount collected paid to the state for deposit to the credit of an account in the general revenue fund and 50 percent of the amount collected paid to the county. Authorizes funds credited to the account in the general revenue fund to be appropriated only to TDA for purposes of administering and enforcing this chapter and rules adopted under this chapter.

SECTION 11. Amends Section 19.014, Agriculture Code, as follows:

Sec. 19.014. ADMINISTRATIVE PENALTIES. Authorizes TDA to assess an administrative penalty under Chapter 12 (Powers and Duties) for a violation of this chapter if TDA finds that a person:

- (1) sells or offers to sell citrus budwood, a citrus nursery tree, or citrus nursery stock falsely claiming that it is certified or that it comes from a designated foundation grove or a certified citrus nursery under this chapter;
- (2) uses citrus budwood in violation of rules adopted under this chapter;
- (3) uses, for commercial purposes, citrus budwood that is required by TDA rule to be certified and is not certified or does not come from a designated foundation grove;
- (4) sells or offers to sell citrus nursery stock in or into the citrus zone falsely claiming that the citrus nursery stock was propagated in a certified citrus nursery;
- (5) operates, in the citrus zone for the propagation of citrus nursery stock, a citrus nursery that is not a certified citrus nursery or that is not in compliance with this chapter or a rule adopted under this chapter;
- (6) operates, outside of the citrus zone for the propagation of citrus nursery stock for sale into the citrus zone, a citrus nursery that is not a certified citrus nursery or that is not in compliance with this chapter or a rule adopted under this chapter;  
or
- (7) fails to comply with an order of TDA issued under this chapter.

Makes nonsubstantive changes.

SECTION 12. (a) Requires TDA, not later than October 1, 2013, to adopt rules to administer Chapter 19, Agriculture Code, as amended by this Act.

(b) Requires the commissioner of agriculture, not later than October 1, 2013, to appoint the members to the advisory council as provided by Section 19.005, Agriculture Code, as amended by this Act.

SECTION 13. Provides that the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 14. Provides that the changes in law made by this Act apply only to a violation committed on or after the effective date of this Act. Provides that a violation committed before the effective date of this Act is covered by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

SECTION 15. Effective date: September 1, 2013.